

**Papio Dam Sites 3C and 1 Preliminary Design  
Ad-Hoc Consultant Selection Subcommittee Meeting  
December 6, 2005  
7:00 p.m.  
Agenda**

Papio Dam Sites 3C and 1 Preliminary Design Ad Hoc Consultant Selection Subcommittee:

Tim Fowler, Chairperson  
Rich Tesar, Vice-Chairperson  
John Conley  
Rick Kolowski  
Jim Thompson

Alternate Voting Members: Fred Conley  
Dick Connealy

Staff Liaison: Paul Woodward \*  
Marlin Petermann

1. Meeting Called to Order – Chairperson Fowler
2. Quorum Call
3. Adoption of Agenda
4. Proof of Publication of Meeting Notice
5. Review and Recommendation on Professional Services Contract with HDR Engineering – John Engel, HDR; and, Marlin Petermann, and Paul Woodward
6. Adjourn

## Memorandum

**To:** Papio Dam Sites 3C and 1 Preliminary Design Ad-Hoc Consultant Selection Subcommittee

**From:** Paul Woodward, Water Resources Engineer

**Date:** November 28, 2005

**Re:** Contract for Professional Services with HDR Engineering, Inc.

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On October 27, 2005, the Ad-Hoc Subcommittee interviewed and selected HDR Engineering, Inc. (HDR) with which to negotiate a professional services contract to provide preliminary design of Papio Dam Sites 3C and 1. Since that time, District staff and representatives from HDR have worked together to prepare the attached agreement, detailed scope, and time and cost estimate for this project.

In summary, HDR will be responsible for providing the following services: project management; public involvement services; agency coordination; hydrologic and hydraulic analysis; preliminary dam designs; transportation, utility and environmental impact evaluations; project economics and funding; land use and recreation planning; and a guide for future project development. According to the schedule, also attached, a final report will be completed within the next 16 months (by April 2007). The total fee for this work was negotiated not to exceed \$621,907, and is broken down between different tasks in the attached fee estimate.

In conclusion, services provided by HDR for this important project would cost a total of \$621,907 and be completed by May 1, 2007.

**Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute a professional services contract with HDR Engineering, Inc. for the Papio Dam Sites 3C and 1 Preliminary Design for a maximum fee of \$621,907.00, subject to minor changes deemed necessary by the General Manager and approved as to form by District Legal Council.**

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

# STANDARD FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

Prepared by

**ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

and

As Modified by the Parties Hereto (all changes shown in redline/strike-out format)

This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (No. C-700, 2002 Edition) of the Engineers Joint Contract Documents Committee. Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance on the completion and use of this Agreement, see EJCDC User's Guide to the Owner-Engineer Agreement, No. E-001, 2002 Edition.

Issued and Published Jointly by



PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE  
*a practice division of the*  
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AMERICAN COUNCIL OF ENGINEERING COMPANIES

AMERICAN SOCIETY OF CIVIL ENGINEERS

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D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.

E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled to the recovery of direct damages resulting from such failure.

#### ARTICLE 4 - INVOICES AND PAYMENTS

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##### 4.01 Invoices

A. *Preparation and Submittal of Invoices.* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

##### 4.02 Payments

A. *Application to Interest and Principal.* Payment will be credited first to any interest owed to Engineer and then to principal.

B. *Failure to Pay.* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:

1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and

2. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.

C. *Disputed Invoices.* If Owner contests an invoice, Owner may withhold only that portion so contested, and must pay the undisputed portion. Owner shall promptly notify Engineer of the disputed item and request either clarification or that remedial action be taken. After a disputed item has been settled, Engineer shall include the disputed item on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

D. *Legislative Actions.* If after the Effective Date of the Agreement any governmental entity takes a legislative action that imposes taxes, fees, or charges on

Engineer's services or compensation under this Agreement, then the Engineer may invoice such new taxes, fees, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall pay such invoiced new taxes, fees, and charges; such payment shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.

#### ARTICLE 5 - OPINIONS OF COST

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##### 5.01 Opinions of Probable Construction Cost

A. Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, since Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner wishes greater assurance as to probable Construction Cost, Owner shall employ an independent cost estimator as provided in Exhibit B.

##### 5.02 Reserved

##### 5.03 Opinions of Total Project Costs

A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in collating the various cost categories which comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

#### ARTICLE 6 - GENERAL CONSIDERATIONS

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##### 6.01 Standards of Performance

A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services.

B. Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's

services. Engineer shall correct any such deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly attributable to deficiencies in Owner-furnished information.

C. Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.

D. Subject to the standard of care set forth in paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

E. Engineer and Owner shall comply with applicable Laws and Regulations and Owner-mandated standards that Owner has provided to Engineer in writing. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, and compensation.

G. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.

H. The General Conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (No. C-700, 2002 Edition) unless both parties mutually agree to use other General Conditions by specific reference in Exhibit J.

I. Engineer shall not at any time supervise, direct, or have control over Contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work.

J. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any

contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

K. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees and its Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made on interpretations or clarifications of the Contract Documents given by Owner without consultation and advice of Engineer.

## **6.02 Design without Construction Phase Services**

A. If Engineer's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, then (1) Engineer's services under this Agreement shall be deemed complete no later than the end of the Bidding or Negotiating Phase; (2) Engineer shall have no design or shop drawing review obligations during construction; (3) Owner assumes all responsibility for the application and interpretation of the Contract Documents, contract administration, construction observation and review, and all other necessary Construction Phase engineering and professional services; and (4) Owner waives any claims against the Engineer that may be connected in any way thereto.

## **6.03 Use of Documents**

A. All Documents are instruments of service in respect to this Project, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed. Owner shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.

B. A party may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform

acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.

D. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.

E. Owner may make and retain copies of Documents for information and reference in connection with use on the Project by Owner. Engineer grants Owner a license to use the Documents on the Project, extensions of the Project, and other projects of Owner, subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project or on any other project without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to Engineer's Consultants; (3) Owner shall indemnify and hold harmless Engineer and Engineer's Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification without written verification, completion, or adaptation by Engineer; (4) such limited license to Owner shall not create any rights in third parties.

F. If Engineer at Owner's request verifies or adapts the Documents for extensions of the Project or for any other project, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

#### **6.04 Insurance**

A. Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.

B. Owner shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Owner shall cause Engineer and Engineer's Consultants to be listed as additional insureds on any general liability or property

insurance policies carried by Owner which are applicable to the Project.

C. Owner shall require Contractor to purchase and maintain general liability and other insurance in accordance with the requirements of paragraph 5.04 of the "Standard General Conditions of the Construction Contract," (No. C-700, 2002 Edition) as prepared by the Engineers Joint Contract Documents Committee and to cause Engineer and Engineer's Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.

D. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.

E. All policies of property insurance relating to the Project shall contain provisions to the effect that Engineer's and Engineer's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Engineer or its Consultants, or any insureds or additional insureds thereunder.

F. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

#### **6.05 Suspension and Termination**

##### *A. Suspension.*

By Owner: Owner may suspend the Project upon seven days written notice to Engineer.

By Engineer: If Engineer's services are substantially delayed through no fault of Engineer, Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement.

B. *Termination.* The obligation to provide further services under this Agreement may be terminated:



1. For cause,

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

b. By Engineer:

1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.

3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate under paragraph 6.05.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience,

a. By Owner effective upon Engineer's receipt of notice from Owner.

C. *Effective Date of Termination.* The terminating party under paragraph 6.05.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files. Upon payment due for services performed prior to the effective date of termination,

Engineer shall deliver or otherwise make available to Owner all documents, data, drawings, specifications, reports, estimates, summaries, notes, and other information and materials as may have been produced or accumulated by Engineer in performing this Agreement.

D. Payments Upon Termination.

1. In the event of any termination under paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of paragraph 6.03.E.

2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in paragraph 6.05.D.1, to invoice Owner and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

## 6.06 Controlling Law

A. This Agreement is to be governed by the law of the state in which the Project is located.

## 6.07 Successors, Assigns, and Beneficiaries

A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators and legal representatives of Owner and Engineer (and to the extent permitted by paragraph 6.07.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, claims arising out of this Agreement or moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no

assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

3. Owner agrees that the substance of the provisions of this paragraph 6.07.C shall appear in the Contract Documents.

#### **6.08 Dispute Resolution**

A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights under law.

B. If the parties fail to resolve a dispute through negotiation under paragraph 6.08.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights under law.

#### **6.09 Environmental Condition of Site**

A. Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.

B. Owner represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.

C. If Engineer encounters an undisclosed Constituent of Concern, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.

D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.

E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days notice.

F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

#### **6.10 Indemnification and Mutual Waiver**

A. *Indemnification by Engineer.* To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, partners, agents, consultants, and employees from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, partners, employees, or Consultants. The indemnification provision of the preceding sentence is subject to and limited by the provisions agreed to by Owner and Engineer in Exhibit I, "Allocation of Risks," if any.

B. *Indemnification by Owner.* To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer, Engineer's officers, directors, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, partners, agents, consultants, or employees, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.

C. *Environmental Indemnification.* In addition to the indemnity provided under paragraph 6.10.B of this Agreement, and to the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (i) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

D. *Percentage Share of Negligence.* To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

E. *Mutual Waiver.* To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

## 6.11 Miscellaneous Provisions

A. *Notices.* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

B. *Survival.* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

C. *Severability.* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

D. *Waiver.* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement. One or more waivers by either party of any provision, term, condition or covenant shall not be constructed as a waiver of a subsequent breach of the same by the other party

E. *Accrual of Claims.* To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

## ARTICLE 7 - DEFINITIONS

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### 7.01 Defined Terms

A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above or in the exhibits; in the following provisions; or in the "Standard General Conditions of the Construction Contract," prepared by the Engineers Joint Contract Documents Committee (No. C-700, 2002 Edition):

1. *Additional Services*--The services to be performed for or furnished to Owner by Engineer in accordance with Exhibit A, Part 2, of this Agreement.

2. *Basic Services*--The services to be performed for or furnished to Owner by Engineer in accordance with Exhibit A, Part 1, of this Agreement.

3. *Construction Cost*--The cost to Owner of those portions of the entire Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or Owner's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

4. *Constituent of Concern*--Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to [a] the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); [b] the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; [c] the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); [d] the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; [e] the Clean Water Act, 33 U.S.C. §§1251 et seq.; [f] the Clean Air Act, 42 U.S.C. §§7401 et seq.; and [g] any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

5. *Consultants*--Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates, consultants, subcontractors, or vendors.

6. *Documents*--Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.

7. *Drawings*--That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.

8. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

9. *Reimbursable Expenses*--The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Project.

10. *Resident Project Representative*--The authorized representative of Engineer, if any, assigned to assist Engineer at the Site during the Construction Phase. The Resident Project Representative will be Engineer's agent or employee and under Engineer's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by Owner. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.

11. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

12. *Total Project Costs*--The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner's costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.

## ARTICLE 8 - EXHIBITS AND SPECIAL PROVISIONS

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### 8.01 Exhibits Included

A. Exhibit A, "Engineer's Services," consisting of 28 pages.

B. Exhibit B, "Owner's Responsibilities," consisting of 2 pages.

C. Exhibit C, "Payments to Engineer for Services and Reimbursable Expenses," consisting of 7 pages.

D. Exhibit D, Reserved

E. Exhibit E, Reserved

F. Exhibit F, Reserved.

G. Exhibit G, "Insurance," consisting of 1 pages.

H. Exhibit H, "Dispute Resolution," consisting of 1 page.

I. Exhibit I, "Allocation of Risks," consisting of 1 page.

J. Exhibit J, Reserved

K. Exhibit K, Reserved

### **8.02 Total Agreement**

A. This Agreement (consisting of pages 1 to 10 inclusive, together with the exhibits identified above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument based on the format of Exhibit K to this Agreement.

### **8.03 Designated Representatives**

A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner:

PAPIO-MISSOURI RIVER NATURAL  
RESOURCES DISTRICT

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Address for giving notices:

8901 S. 154<sup>th</sup> Street

Omaha, NE 68138-3621

Designated Representative (see paragraph 8.03.A):

Steven Otlmans

Title: General Manager

Phone Number: (402) 444-6222

Facsimile Number: (402) 895-6543

E-Mail Address: soltmans@papiord.org

Engineer:

HDR ENGINEERING, INC.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Engineer License or Certificate No. \_\_\_\_\_

State of: \_\_\_\_\_

Address for giving notices:

8404 Indian Hills Drive

Omaha, NE 68114

Designated Representative (see paragraph 8.03.A):

Timothy Crockett, P.E.

Title: Senior Vice President

Phone Number: (402) 399-1257

Facsimile Number: (402)-399-1111

E-Mail Address: tcrocket@hdrinc.com

SUGGESTED FORMAT  
(for use with E-500, 2002 Edition)

This is **EXHIBIT A**, consisting of 28 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Engineer's Services

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Article 1 of the Agreement is amended and supplemented to include the following agreement of the parties. Engineer shall provide Basic and Additional Services as set forth below.

PART 1 – BASIC SERVICES

INSERT SCOPE OF SERVICES

INSERT SCHEDULE OF SERVICES

SUGGESTED FORMAT  
(for use with E-500, 2002 Edition)

This is **EXHIBIT B**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Owner's Responsibilities

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Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.

B. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.

C. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:

1. Property descriptions.
2. Zoning, deed, and other land use restrictions.
3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
5. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.

D. Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of the presence at the Site of any Constituent of Concern, or of any other development that affects the scope or time of performance of Engineer's services, or any defect or nonconformance in Engineer's services, the Work, or in the performance of any Contractor.

E. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.

F. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.



G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

I. Provide, as required for the Project:

1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
2. Legal services with regard to issues pertaining to the Project as Owner requires or deems appropriate, Contractor raises, or Engineer reasonably requests, including but not limited to the review of Contract Documents supplied by Engineer.
3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the moneys paid.
4. Placement and payment for advertisement for Bids in appropriate publications.

J. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.

K. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.

L. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.

M. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

N. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment inspections.

O. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of Samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof.

P. Provide Engineer with the findings and reports generated by the entities providing services to Owner pursuant to this paragraph.

Q. Perform or provide the following additional services: \_\_\_\_\_.

SUGGESTED FORMAT  
(for use with E-500, 2002 Edition)

This is **EXHIBIT C**, consisting of 7 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Payments to Engineer for Services and Reimbursable Expenses

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Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties:

ARTICLE 2 -- Owner's Responsibilities

C2.01 Compensation For Basic Services (other than Resident Project Representative and Post-Construction) – Direct Labor Costs Times a Factor Method of Payment

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, except for services of Engineer's Resident Project Representative and Post-Construction Phase services, if any, as follows:

1. An amount equal to Engineer's Direct Labor Costs times a factor of 3.15 for the services of Engineer's employees engaged on the Project, plus Reimbursable Expenses, provided however, the total due to ENGINEER for such services and for Reimbursable Expenses shall not exceed the amount of \$621,907, unless authorized in writing by Owner.
2. The fee schedule is attached to this Exhibit C as Appendix 1.
3. Engineer's Reimbursable Expenses Schedule is attached to this Exhibit C as Appendix 2.
4. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total compensation amount unless approved in writing by Owner.
5. The total estimated compensation for Engineer's services included in the breakdown by phases as noted in paragraph C2.01.A.3, incorporates all labor, overhead, profit, Reimbursable Expenses, and Engineer's Consultant's charges.
6. The portion of the amounts billed for Engineer's services which are related to services rendered on a Direct Labor Costs times a Factor basis will be billed based on the applicable Direct Labor Costs for the cumulative hours charged to the Project by Engineer's principals and employees multiplied by the above-designated factor, plus Reimbursable Expenses and Engineer's Consultant's charges incurred during the billing period.
7. Direct Labor Costs means salaries and wages paid to employees but does not include payroll related costs or benefits.

C2.02 Compensation For Reimbursable Expenses

A. Owner shall pay Engineer for all Reimbursable Expenses at the rates set forth in Appendix 2 to this Exhibit C.

B. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); providing and maintaining field office facilities including furnishings and utilities; toll telephone calls and mobile phone charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A, and, if authorized in advance by Owner, overtime work requiring higher than regular rates. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for computer time and the use of other highly specialized equipment.

C. The amounts payable to Engineer for Reimbursable Expenses will be the Project-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to the Project, plus 10%.

#### C2.03 Other Provisions Concerning Payment

A. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer, plus 10%.

B. Factors. The external Reimbursable Expenses and Engineer's Consultant's factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

#### C. Estimated Compensation Amounts

1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.

2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that a compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof. Promptly thereafter Owner and Engineer shall review the matter of services remaining to be performed and compensation for such services. Owner shall either agree to such compensation exceeding said estimated amount or Owner and Engineer shall agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, the Engineer shall be paid for all services rendered hereunder.

D. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

SUGGESTED FORMAT  
(for use with E-500, 2002 Edition)

C2.05 Compensation For Additional Services – Direct Labor Costs Times a Factor Method of Payment

A. Owner shall pay Engineer for Additional Services as follows:

1. *General.* For services of Engineer's employees engaged directly on the Project pursuant to paragraph A2.01 or A2.02 of Exhibit A of the Agreement, except for services as a consultant or witness under paragraph A2.01.A.20, an amount equal to Engineer's Direct Labor Costs times a factor of 3.15, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any.

B. Compensation For Reimbursable Expenses

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under paragraph C2.01 and are directly related to the provision of Additional Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.

2. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); providing and maintaining field office facilities including furnishings and utilities; toll telephone calls and mobile phone charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A, and, if authorized in advance by Owner, overtime work requiring higher than regular rates. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for computer time and the use of other highly specialized equipment.

3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, plus 10%.

C. Other Provisions Concerning Payment For Additional Services

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer, plus 10%.

2. *Factors.* The external Reimbursable Expenses and Engineer's Consultant's factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

3. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

INSERT DETAILED FEE ESTIMATE

This is **Appendix 2 to EXHIBIT C**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

**Reimbursable Expenses Schedule**

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Current agreements for engineering services stipulate that the Reimbursable Expenses are subject to review and adjustment per Exhibit C. Reimbursable expenses for services performed on the date of the Agreement are:

8"x11" Copies/black and white	\$0.06/page
8"x11" Copies/Color	\$0.75/page
11"x17" Copies/Color	\$1.50/page
Presentation Boards (plot and mount)	\$150.00 each
Mileage	\$0.45/mile
Technology Fee	\$4.10/direct labor hour
Film and film processing	cost
Report Binders with Custom Index Tabs	\$15.00/each

SUGGESTED FORMAT  
(for use with E-500, 2002 Edition)

This is **EXHIBIT D**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

RESERVED

SUGGESTED FORMAT  
(for use with E-500, 2002 Edition)

This is **EXHIBIT E**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

RESERVED

SUGGESTED FORMAT  
(for use with E-500, 2002 Edition)

This is **EXHIBIT F**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

RESERVED



SUGGESTED FORMAT  
(for use with E-500, 2002 Edition)

This is **EXHIBIT G**, consisting of 1 pages, referred to in and part of  
the **Agreement between Owner and Engineer for Professional  
Services** dated \_\_\_\_\_, \_\_\_\_\_.

Insurance

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Paragraph 6.05 of the Agreement is amended and supplemented to include the following agreement of the parties.

G6.05 Insurance

A. The limits of liability for the insurance required by the Agreement are as follows:

The ENGINEER shall purchase, and maintain until the expiration of two years after completion of the Project policies of insurance with the following minimum requirements:

- a) Workmen's Compensation and Employers Liability
  - i) Workers' Compensation: statutory minimum
  - ii) Longshore and Harbor Workers' Compensation Act endorsement and Admiralty Law endorsements (required if the work involves maritime operations).
  - iii) Employer's Liability: \$250,000.00 per accident.
- b) Professional malpractice
  - i) \$1,000,000.00 each claim
  - ii) \$2,000,000.00 aggregate
- c) Commercial General Liability – ISO Occurrence Form
  - i) \$1,000,000.00 each occurrence
  - ii) \$2,000,000.00 general aggregate
  - iii) \$2,000,000.00 products – completed operations aggregate
  - iv) \$1,000,000.00 personal & advertising injury
  - v) \$300,000.00 fire damage
  - vi) \$5,000.00 medical expense
- d) Business Auto Liability - Owned, Non-Owned & Hired vehicles \$1,000,000.00 combined single limit
- e) General Provisions:
  - i) All policies shall provide 30 days written notice to the OWNER prior to termination or material change by endorsement in the coverage provided.
  - ii) The OWNER reserves the right to approve the ENGINEER'S insurers.
  - iii) Workers Compensation and Commercial General Liability policies shall be endorsed to provide Waiver of Subrogation in favor of the OWNER.
  - iv) The Commercial General Liability policy shall be endorsed to include the OWNER as Additional Insured (form CG 20 10) and shall be endorsed to have any annual aggregate apply on a per-project basis.

SUGGESTED FORMAT  
(for use with E-500, 2002 Edition)

This is **EXHIBIT H**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Dispute Resolution

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Paragraph 6.09 of the Agreement is amended and supplemented to include the following agreement of the parties:

H6.09 Dispute Resolution

A. Mediation. Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation by *[To be determined]*. If such mediation is unsuccessful in resolving a Dispute, then (a) the parties may mutually agree to a dispute resolution of their choice, or (b) either party may seek to have the Dispute resolved by a court of competent jurisdiction.

SUGGESTED FORMAT  
(for use with E-500, 2002 Edition)

This is **EXHIBIT I**, consisting of 1 pages, referred to in and part of the  
**Agreement between Owner and Engineer for Professional Services**  
dated \_\_\_\_\_, \_\_\_\_\_.

Allocation of Risks

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Paragraph 6.11 of the Agreement is amended and supplemented to include the following agreement of the parties:

6.11.B Limitation of Engineer's Liability

1. *Exclusion of Special, Incidental, Indirect, and Consequential Damages.* To the fullest extent permitted by law, and notwithstanding any other provision in the Agreement, consistent with the terms of paragraph 6.11.E the Engineer and Engineer's officers, directors, partners, employees, agents, and Engineer's Consultants, or any of them, shall not be liable to Owner or anyone claiming by, through, or under Owner for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, professional errors or omissions, strict liability, breach of contract, or warranties, express or implied, of Engineer or Engineer's officers, directors, partners, employees, agents, or Engineer's Consultants, or any of them.

SUGGESTED FORMAT  
(for use with E-500, 2002 Edition)

This is **EXHIBIT J**, consisting of \_\_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Reserved

SUGGESTED FORMAT  
(for use with E-500, 2002 Edition)

This is **EXHIBIT K**, consisting of \_\_\_\_ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_, \_\_\_\_.

Reserved

**For Papio-Missouri River Natural Resources District  
For Preliminary Design of Dam Sites 1 and 3C  
Papillion Creek Watershed (Washington and Douglas Counties, NE)**



## **ENGINEERING PROPOSAL**



## **BACKGROUND AND BASIS OF PROPOSAL**

The purpose of this Agreement is to provide professional services to the Papio-Missouri River NRD on the preliminary design of Dam Sites 1 and 3C.

Dam Site 1 is located on Big Papillion Creek in Washington County, located west of County Road 27 approximately 0.7 mi north of U.S. Highway 30. The contributing drainage area at the proposed dam site is approximately 23.3 square miles. The drainage area of Dam Site 1 is primarily agricultural land with minimal residential development.

Dam Site 3C is located approximately 0.4 mi northwest of the intersection of State Highway 36 and 168th Street on the Big Papillion Creek in Douglas County, with the majority of the reservoir pool residing in Washington County. The contributing drainage area at the proposed dam site is approximately 97.5 square miles. The drainage area of Dam Site 3C is primarily agricultural land with minimal rural residential development and concentrated residential development limited to the communities of Kennard and Washington.

The scope of work is segmented into 14 task series:

- Task Series 100 – Project Management
- Task Series 200 – Public Involvement
- Task Series 300 – Agency Coordination
- Task Series 400 – Hydrology/Hydraulics Analyses
- Task Series 500 – Transportation System Evaluation
- Task Series 600 – Utility Evaluation
- Task Series 700 – Environmental Evaluation
- Task Series 800 – Project Economics
- Task Series 900 – Landuse Planning
- Task Series 1000 – Recreation Planning
- Task Series 1100 – Project Funding
- Task Series 1200 – Design Elements
- Task Series 1300 – Project Development Guide
- Task Series 1400 – Report Preparation

The HDR Team proposes to provide the following professional services over an anticipated sixteen (16) – month project period from the time of contract authorization.

### **TASK SERIES 100 – PROJECT MANAGEMENT**

**Task Objective:** Confirm that Project elements are being completed.

**HDR Activities:** **Task 110 Project Management.** Conduct general project management tasks. Includes development of project initiation forms including the development of a project guide, monthly invoicing, monthly progress report, project close out activities and other administrative project activities.

**Task 120 Coordination Meetings.** Coordination meetings will be conducted with the P-MRNRD during the project. An agenda will be prepared prior to the meeting and meeting minutes prepared after the meeting.

**Subtask 120.1 Conduct Kick-Off Meeting.** Conduct an initial meeting to discuss project details with P-MRNRD. Review project guide and scope of services.

**Subtask 120.2 Conduct P-MRNRD Coordination Meetings.** Meet with P-MRNRD personnel to review and discuss Project progress. Assume a total of 6 regularly scheduled meetings.

**Subtask 120.3 Conduct Board/Subcommittee Meeting Presentation.** Conduct 2 presentations to the P-MRNRD Board/Subcommittee to provide the results of the study. A PowerPoint presentation and handouts will be prepared. It is anticipated one presentation will be in October 2006 prior to the late-stage public meeting, and one presentation at project's end in April 2007.

**Task Deliverables:**

- Project guide
- Monthly invoices and progress reports
- Meetings agenda and minutes
- PowerPoint presentations for P-MRNRD Board/Subcommittee Presentations

**Key Understandings:**

- The duration of the project is 14 months.
- Meetings will be held at the offices of the P-MRNRD and attended by 3 HDR professionals.
- One (1) kickoff meeting and 6 coordination meetings
- Two (2) P-MRNRD Board/Subcommittee meeting presentations

**TASK 200 PUBLIC INVOLVEMENT**

**Task Objective:** Develop and implement a Public Involvement Strategy to encourage participation of landowners, elected officials, concerned citizens, local organizations, financial institutions, potential investors, and the development community.

**HDR Activities:** **Task 210 Steering Committee.** The HDR Team will create, with P-MRNRD input, and partner with a Steering Committee comprised of representatives of stakeholder groups who will assist in establishing the Public Involvement Strategy. The Steering Committee's focus is to provide guidance throughout the Project. Because many of the concerns are expected to be about specific issues, participants on this committee will likely also participate in the technical analysis tasks specific to their interests. It is also expected that additional publics will participate in these technical analysis tasks.

**Subtask 210.1 Steering Committee Formation** - A Stakeholder Steering committee will be formed consisting of members that include representation from stakeholder groups such as town council representatives, agricultural interests, County Commissioners, mayors, and planning officials. HDR to initially contact Steering Committee members for participation.

**Subtask 210.2 Communication and Meetings** – Following formation of the Steering Committee, an initial meeting will be held to clearly define the project scope and goals, as well as the Steering Committee's role in the project. Continuous communication with the Steering Committee will be maintained and

five (5) meetings held to keep all parties informed of the Project status, obtain feedback on Public Involvement Plan (Plan) results, and how the Plan can be improved.

**Task 220 Public Involvement Plan** – With Steering Committee and P-MRNRD input, HDR will develop a Public Involvement Plan which identifies:

- Means and ways to identify key stakeholders
- Means and ways to identify critical stakeholder issues
- How to solicit public involvement
- Identifies methods used to communicate with public

**Subtask 220.1 Draft Public Involvement Plan** Develop Draft Public Involvement Plan and review with Steering Committee and P-MRNRD

**Subtask 220.2 Final Public Involvement Plan** Revise and Finalize Public Involvement Plan.

**Task 230 Implementation of Public Involvement Plan** – The unique components and means of the Public Involvement Plan for this project will be identified in Task 220. Ongoing plan evaluation and maintenance will occur with this committee to determine if the Plan is effective and, if not, how it could be improved.

**Subtask 230.1 Identify Interested and/or Affected Stakeholders.** HDR will identify who is interested and/or affected by this Project through the Steering Committee, individual stakeholder meetings, and an initial public meeting.

**Subtask 230.1.1 Initial Public Meeting**

HDR will prepare presentation materials for the public meeting. Presentation materials include a condensed Project background document (2 pages) and 5 boards. HDR will revise to address review comments from P-MRNRD prior to finalizing. HDR to prepare invitation to public meeting for potentially impacted landowners.

HDR Team members covering the project disciplines will attend the public meeting. It is anticipated that after a Project overview, a workshop with informational stations for each of the key project components staffed by HDR/P-MRNRD personnel will be employed to identify key stakeholders, extent of each stakeholder's desired involvement, and issues relevant to that Project component. This information will be used to develop the public involvement tasks associated with each of those Project components.

**Subtask 230.1.2 Individual Stakeholder Interviews** Key stakeholders identified by the Steering Committee not participating at the public meeting will be interviewed to determine their issues. Three days (2 days one week, and one day the following week) will be set aside for individual stakeholder meetings by appointment for those not able to participate in Public Meeting, or those requesting additional discussion time. Days for these interviews will be identified in the invitation and appointments can be made via telephone, or sign-up at the public meeting. Appointments will be ½ hour in duration.

**Subtask 230.1.3 Public Meeting/Interview Follow-Up** Compilation of Public Meeting minutes and stakeholder interview results.



**Subtask 230.2 Identify Key Stakeholder Issues.** HDR will identify key project issues to be addressed in study through the initial public meeting, individual stakeholder interviews, and through the public involvement activities associated with analysis tasks.

### **Subtask 230.3 Public Outreach**

**Subtask 230.3.1 Education and Informational Materials** – Based on the stakeholders and issues identified, the HDR Team will develop educational and informational materials for the Project. Materials include four (4) quarterly mailers, one (1) final project brochure, maximum of five (5) display boards for each public meeting, two (2) renderings, and one (1), 10 minute video. Original material will be developed by HDR. P-MRNRD will be responsible for all printing.

**Subtask 230.3.2 Project Press Releases** – HDR will assist the P-MRNRD in developing and issuing press releases to local news media. These press releases are intended to inform the public of project goals, benefits, and encourage public involvement. Four (4) quarterly press releases are anticipated. Included in these four are two press releases for the initial and late-stage public meetings.

**Subtask 230.3.3 Project Website.** HDR will host project web site and provide web content for a 2-way communication between the public and the Project Team. The web page will be narrative in format with several graphics. This site will include, at a minimum, the following components:

- Frequently Asked Questions (FAQ)
- Public Involvement Opportunities
- News and Information
- Related Links
- Contact Information

All material will be reviewed with P-MRNRD, and revised per comments received, prior to posting on the web site. The web page content will be modified as the Project progresses. Bi-monthly updates are anticipated.

**Subtask 230.4 Late-Stage Public Meeting** – A late-stage public meeting will be held to inform the public participants results of the Project, including public participants, input received, issues identified and how addressed, and study results.

HDR will prepare presentation materials for the public meeting. Presentation materials include a condensed results summary (5 pages) and 5 boards. HDR will revise to address review comments from P-MRNRD prior to finalizing. HDR to prepare invitation to public meeting for potentially impacted landowners.

HDR Team members participating in the project will attend the public meeting. HDR will compile Public Meeting minutes.

#### **Task Deliverables:**

- Steering Committee Membership Directory
- Draft and Final Public Involvement Plan
- Presentation Materials (5-boards, handouts, and PowerPoint Presentation) for 2 meetings.
- Invitation to public meetings
- Initial and Late Stage Meeting Minutes
- Project Communication Materials (monthly newsletters, etc.)